

## **Open Space & Trails**

### **Enabling Legislation: Articles XIII-Open Space/Trails**

Added 11/6/90

Amended 11/2/99

Amended 11/7/06

#### **13.1 Open Space/Trail Funds – Restrictions.**

All funds from the increase in the mill levy and the issuance of general obligation debt, approved by the electorate November 6, 1990, November 2, 1999, and November 7, 2006, shall be utilized solely for the following purposes and according to the following restrictions:

Added 11/6/90

Amended 11/2/99

Amended 11/7/06

##### **13.1.1 Separate Fund.**

Funds shall be deposited in a separate Open Space/Trails Fund (“the Fund”) and shall, together with all interest or other earnings thereon, be earmarked for and restricted to the acquisition, improvement and maintenance of open space and trails and directly related expenses, including necessary staffing and services, and the payment of debt issued therefor and the costs of such issuance, and such Fund shall not be spent for other purposes under any circumstances.

Added 11/6/90

Amended 11/2/99

Amended 11/7/06

##### **13.1.2 Allocations to Acquisitions and Improvements of Open Space and Trails.**

Seventy five percent (75%) of the revenue collected shall be set aside exclusively for the acquisition and improvement of real property, water rights, or interests therein, which interests shall include, but are not limited to, mineral rights, for open space uses and purposes, as defined in Section 13.5.1 (1-5 and 10), and twenty percent (20%) of the revenue collected shall be set aside exclusively for the acquisition and improvement of real property or interests therein for trail and trailhead uses and purposes, as defined in Section 13.5.1 (6-9). Such acquisitions and improvements shall be selected and determined by the Board of County Commissioners from a list of recommended acquisitions and improvements developed by the Open Space/Trails Board to carry out the purposes of the Open Space/Trails Program set forth in Section 13.5.1.

Added 11/6/90

Amended 11/2/99

Amended 11/7/06

##### **13.1.3 Allocations to Maintenance of Open Space and Trails.**

Five percent (5%) of the revenue collected shall be set aside for exclusively managing, maintaining, rehabilitating and preserving County open space and trails, either acquired from the Open Space/Trails Fund or acquired from other sources and designated from time to time by the Board of County Commissioners after consulting with the Open Space/Trails Board,

and trails made available to the public by other public and private entities. Such revenue shall not be used to replace existing funding for the maintenance of Open Space and Trails except for the maintenance of Nordic trails, which prior to 2006 were maintained with funds from other local government sources. For purposes of this Section, maintenance shall also include both fostering stewardship of public and private open space lands and promoting public education and awareness of the benefits of preserving open space and trails.

Added 11/6/90  
Amended 11/2/99  
Amended 11/7/06

13.1.4 Upon approval of the Board of County Commissioners, after consulting with the Open Space/Trails Board, the percentage revenue allocations in Sections 13.1.2 and 13.1.3 may be increased or decreased by up to 10% for any time period; however, the allocation in Section 13.1.3 shall never be less than 5%. This effectively creates allocation ranges of 65-85% for open space, 10-30% for trails and 5-15% for maintenance.

Amended 11/2/99  
Amended 11/7/06

13.1.5 Funds collected from the issuance of general obligation debt may be used for the refunding and issuance costs of such debt and for the acquisition, improvement and capital maintenance of open space and trails properties without being subject to the percentage revenue allocations set forth in Sections 13.1.2, 13.1.3 and 13.1.4.

Added 11/6/90  
Amended 11/7/06

### **13.2 Open Space/Trails – Definitions.**

Added 11/6/90  
Amended 11/7/06

13.2.1 "Open Space" shall be defined as primarily undeveloped lands and waters which meet one or more of the following criteria: Within public scenic viewplanes; bounding or within urbanized areas; incorporating or protecting significant wildlife habitat; preserving historic agricultural and ranching activities; protecting riparian or wetlands areas; protecting other public lands from the impacts of development.

Added 11/6/90  
Amended 11/7/06

13.2.2 "Trails" shall be defined as non-motorized accessway meeting one or more of the following criteria: preserving historic routes of ingress and egress to public lands and waterways; providing access to and from recreational or urban destinations; providing transportation or recreational opportunities throughout the Roaring Fork Watershed.

Added 11/6/90  
Amended 11/2/99

**13.3 Open Space/Trails Board of Trustees.**  
The Pitkin County Open Space/Trails Board of Trustees,

Amended 11/7/06 established by the Board of County Commissioners, following approval of the electorate at the November 6, 1990, November 2, 1999, and November 7, 2006, shall operate as follows:

Added 11/6/90 **13.3.1 Qualifications.**  
Five Trustees shall be appointed by the Board of County Commissioners, one of whom shall reside in each Commissioner District. Each Trustee shall hold no other County or municipal office, shall not be employed by a municipality or county, and shall serve without pay.

Added 11/6/90 **13.3.2 Term of Office.**  
Each Trustee shall be appointed for a term of five (5) years, staggered so that one term expires each year, so that initial appointments shall be for five, four, three, two and one year, respectively.

Added 11/6/90 **13.3.3 Functions of Board.**  
Amended 11/2/99 The Open Space/Trails Board of Trustees shall:

- (1) Establish priorities and criteria for the acquisition of Open Space and of Trails and for the management and maintenance of all properties acquired with expenditures from the Open Space/Trails Fund.
- (2) Review Open Space/Trails elements of Comprehensive and Area plans and make recommendations concerning any open space-related changes to plans.
- (3) Make recommendations to the Planning & Zoning Commission as warranted regarding open space/trails impacts of applications filed under the Pitkin County Land Use Code and regarding exactions or dedications required to fulfill the goals of the Open Space and Trails Program, as established in the Article XIII.
- (4) Make recommendations to the Board of County Commissioners for the acquisition of specific fee interests, options, easements, or other interests in real property from expenditures from the Open Space/Trails Fund.
- (5) Establish relationships with local and regional land trusts to more effectively discharge Board

responsibilities.

Added 11/2/99

- (6) Make recommendations to the Board of County Commissioners for the hiring of a Director and such other Open Space/Trails Program staff as is necessary to accomplish the purposes of this article and participate in performance reviews of Open Space/Trails Program staff.

Added 11/6/90

Amended 11/2/99

#### **13.3.4 Staff Support.**

The Board of County Commissioners shall employ Open Space/Trails Program staff, including a Director, from among a list of persons recommended by the Open Space/Trails Board of Trustees. The Director may not be terminated without cause by the Commissioners without the consent of the Open Space/Trails Board of Trustees. Such staff shall carry out the following responsibilities:

- (1) Implement the decisions and directives and carry out the administrative functions of the Open Space/Trails Board.
- (2) Oversee the management and maintenance of open space lands and trails acquired with Open Space/Trails Funds.
- (3) Review and comment as warranted on all development applications impacting existing and planned open space lands and trails.

Amended 11/2/99

13.4 [There is no 13.4]

Added 11/6/90

Amended 11/2/99

Amended 11/7/06

#### **13.5 Open Space/Trails – Program.**

Added 11/6/90

Amended 11/2/99

Amended 11/7/06

##### **13.5.1 Purposes.**

The Open Space/Trails Board of Trustees shall promulgate such policies as will further the following purposes for Open Space and Trails acquisitions:

- (1) Shaping development (greenbelt and viewplanes).
- (2) Incorporating or protecting significant wildlife habitat and corridors.

- (3) Preventing encroachment on flood plain and riparian areas.
- (4) Preserving historic agricultural and ranching activities.
- (5) Protecting other public lands from the impacts of development.
- (6) Preserving historic routes of ingress and egress to public lands and waterways.
- (7) Providing access to and from recreational or urban destinations.
- (8) Providing recreational opportunities throughout Pitkin County which are directly related to and not inconsistent with the foregoing purposes.
- (9) Providing a Nordic Trail system.
- (10) Protecting native aquatic habitat and recreational opportunities associated with streams and rivers.

Added 11/6/90  
 Amended 11/2/99  
 Amended 11/7/06

**13.5.2 Limitations.**

Open Space and Trails acquired with Open Space/Trails Funds shall be limited to uses consistent with the purposes enumerated in Section 13.5.1 and to such improvements as are necessary to the protection and preservation of such lands and trails for the purposes set forth in Section 13.5.1, unless conversion to additional and/or more active uses and related capital improvements are approved pursuant to Section 13.5.3.

Added 11/6/90  
 Amended 11/2/99  
 Amended 11/7/06

**13.5.3 Prohibitions on sale or conversion of Open Space or Trails.**

No open space or trail interest in real property, whether fee, easement or otherwise, acquired with Open Space/Trails Funds, shall be sold or conveyed nor shall any interest be converted by Pitkin County to any other use or purpose (e.g., golf course, housing) unless such open space or trail interest in real property is replaced with another open space or trail interest in real property of equivalent value as of the date of sale or conversion as determined by the Board of County Commissioners taking into consideration monetary value and the values in 13.5.1, and until such sale or conversion is approved by a majority of the electorate at a general or special election called for this purpose. The Board of County Commissioners shall consult with the Open Space/Trails Board on the equivalent value of the replacement property and the

advisability of the sale or conversion and shall publicly disclose the analysis supporting its finding of equivalent value.

Notwithstanding the other provisions of this section, partial property interests may be sold or conveyed if the fair market value of the open space interest retained is at least equal to the net permanent investment of open space funds and such sale or conveyance does not materially diminish the conservation values of the property, as set for in Section 13.5(1) as determined by a vote of at least four members of both the Open Space and Trails Board and at least four members of the Board of County Commissioners, and provided that the County's intention for a partial sale of the interest is expressly stated in the Open Space Board's recommendation of the initial purchase, and in the Board of County Commissioners Ordinance authorizing the initial purchase.

Notwithstanding the other provisions of this section, a conservation easement may be conveyed to a third party to further ensure permanent protection of open space lands owned in fee by Pitkin County.